

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
15 EHR 06892

SETTLEMENT AGREEMENT

1. The Petitioner will pay ten thousand dollars (\$10,000.00) to DEQ for settlement. The Settlement Amount shall be due and payable on or before June 3, 2016.

2. The payments shall be by check made payable to the North Carolina Department of Environmental Quality (or to "DEQ") at the following address:

Anita LeVeaux
Attorney General's Office

Air, Water & Natural Resources, Environmental Division

Post Office Box 629
Raleigh, NC 27602-0629

3. Eaven Brice Partnership ("Permittee"), will immediately implement the following measures/conditions, unless another timeframe is more specifically noted below :

- a. On a quarterly basis, DWR will require the designated N. C. Certified Wastewater Operator in Responsible Charge ("ORC") to collect sufficient volumes of water sample to allow DWR to collect split-samples for all or select parameters or utilize DWR-owned sampling equipment for sample collection.
 - i. DWR will provide at least 24 hour advanced notice to the ORC or permittee when utilizing DWR equipment to sample and 24 hour notice when collecting split-samples.
 - ii. When collecting split-samples, DWR reserves the right to observe the entire sample collection procedure. DWR analytical results will be available for review at the Asheville Regional Office ("ARO" or "Asheville Regional Office").
- b. Within 15 days of the execution of this agreement, Permittee shall submit documentation identifying the type of new flowmeter to be installed at the NVMHP wastewater treatment facility. The flowmeter must be approved by DWR prior to purchase and installation and must be of industry standard specifications. The new flowmeter shall be installed and operational within 15 days of DWR's approval.
 - i. The Permittee shall inform DWR at least one week prior to the flowmeter install date.
 - ii. DWR must inspect and approve the installation and operation of the flowmeter prior to use.
 - iii. The flow data shall be included on the monthly reports submittals.

- c. Submittal of a monthly process control report is required pursuant to the NPDES permit and this agreement. Monthly process control reports must be completed by the ORC or back-up ORC. The reports are to be received by the Asheville Regional Office no later than the 10th day of the following month of reporting. Reports must be submitted on forms provided by DWR. Monthly reports are required for a 24 month period or as otherwise noted in Permit.
 - d. Within 30 days of signing this agreement, DWR will verify the currently used flow-proportion composite sampling method and equipment. DWR will coordinate with the ORC to meet onsite for a complete review of the methodology and equipment used. If DWR does not approve of the method or equipment, new sampling methods and/or equipment will be required to be purchased, installed and operational within 60 days.
 - e. Owners of classified water pollution control systems must designate operators pursuant to 15A NCAC 08G .0201.
4. Expanded Discharge Conditions and Facility Compliance. Discharges greater than 0.032 MGD per day are not authorized until DWR approval is obtained in writing. The following conditions (4.a., 4.b. and 4.c.) will be incorporated into the draft Permit and will be submitted to the public review process as part of the permit renewal process. The inclusion of the proposed condition in the draft permit does not guarantee that the condition will be in the final document as all comments tendered during the public comment period must be considered by DWR.
- a. Not less than three months, nor more than six months, unless by written agreement of the parties, from the effective date of the renewed permit, and upon request of the Permittee, DWR will perform an instream assessment of the receiving stream, Flat Creek, to assess both water quality parameters and macroinvertebrate populations. DWR will notify Permittee of the date of the instream assessment in sufficient time that Permittee can arrange for an independent third party to attend and share samples collected. If it is determined that the permitted discharge from the facility is not causing stream degradation resulting in water quality standard violations, including narrative standards, which determination shall not be unreasonably withheld, then DWR will grant Permittee discharges of up to 0.050 MGD provided the facility is being operated in a manner such that it is compliant with its Permit . The Permittee may voluntarily hire an independent third party to do an instream assessment using DWR approved instream assessment methodologies at any time. Permittee will provide DWR sufficient notice of

the sampling so that DWR may have their personnel attend and share samples collected. DWR will consider such data in conjunction with its own instream data, when making its determination of whether water quality standards are being contravened as a result of the NPDES discharge.

- b. The Permittee may make a written request that a stream assessment be performed by DWR prior to the date established above as long as the facility is compliant with its Permit NC0067342, but no sooner than three months from the effective date of the permit. The Permittee may hire a third party to perform an instream assessment using DWR approved instream assessment methodologies; DWR will consider the data from that assessment when making its compliance determinations. Continued noncompliance at the facility may prevent DWR from approving discharges greater than 0.032 MGD.
 - c. If DWR denies the expanded flow above 0.032 MGD, then the Permittee may request another DWR assessment be done annually (from the date of the last instream assessment) thereafter.
- 5. Facility compliance determination, for the purposes of paragraph 4, will be evaluated in the following manner:
 - a. Routine NPDES facility inspections of the subject facility will be performed by at least two DWR staff. Any inspection findings or compliance determinations will be approved by both DWR staff present during the inspection. The inspections will be performed in a manner consistent with all other DWR NPDES facility inspections applying standard DWR and EPA inspection practices and knowledge such as those cited in EPA 305-X-04-001, and the Sacramento Wastewater Training Manuals. DWR will notify the Permittee to reasonably coordinate routine inspections with the Permittee and ORC as DWR does on all other routine NPDES inspections.
 - b. Review and evaluation of all monitoring data.
 - c. In evaluating facilities to determine compliance, DWR considers the operational configuration of each individual facility and any specific or unique operational challenges of the subject facility. DWR will apply the same considerations when determining compliance status for the NVMHP NPDES as other DWR permitted facilities. Inspections will include, but will not be not limited to, examination of the following treatment components of the facility:
 - i. Bar Screens
 - ii. Aeration Basins
 - iii. Secondary Clarifier
 - iv. Disinfection
 - v. Dechlorination
 - vi. Effluent Pipe
- 6. The material breach of any condition of Paragraphs one (1) or two(2)by the Permittee/Petitioners will render due and payable the balance of the entire amount

of the Civil Penalty Assessment, i.e. twenty-five thousand, three hundred seventy-seventy dollars and sixty-seven cents (\$25,377.67), less the amount paid pursuant to this Settlement Agreement.

7. DEQ agrees to accept the payment of ten thousand dollars (\$10,000.00), in complete satisfaction of the claimed Civil Penalty Assessment subject to the terms of this Agreement.
8. Nothing in this Agreement shall restrict any right of DEQ to take any enforcement action against Petitioners for any future violations.
9. This Agreement shall be binding upon the parties and is entered into knowingly, intelligently, and voluntarily.

WITHDRAWAL OF PETITION

10. Entry of this Agreement serves as Petitioners' Withdrawal of Petition for Contested Case Hearing in this matter. The parties agree this matter is concluded and that no further proceedings are needed or required to resolve this contested case.

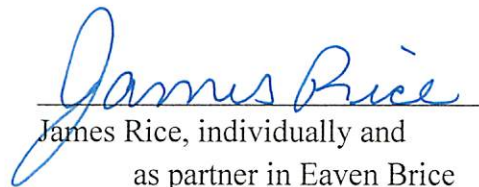
This the 14th day of JUNE 2016

FOR THE NC DEPARTMENT OF
ENVIRONMENTAL QUALITY



Date: 6/14/16

FOR THE PETITIONERS:



James Rice, individually and
as partner in Eaven Brice
Partnership

Date: 5-31-16